

Senate Bill No. 1045

Passed the Senate August 19, 2003

Secretary of the Senate

Passed the Assembly July 29, 2003

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day of
_____, 2003, at _____ o'clock __M.

Private Secretary of the Governor

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CHAPTER _____

An act to amend Sections 33020, 33333.2, 33333.6, and 33683 of, and to add Sections 33681.9, 33681.10, and 33681.11 to, the Health and Safety Code, relating to redevelopment, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1045, Committee on Budget and Fiscal Review.
Redevelopment.

(1) Existing law requires a redevelopment agency, during the 2002–03 fiscal year, to allocate to the county auditor an amount of revenue, determined in accordance with specified calculations made by the Director of Finance and based on a specified report of the Controller, for deposit in the Educational Revenue Augmentation Fund in each county for allocation to school entities.

This bill would require a redevelopment agency to make a similar allocation in the 2003–04 fiscal year, based on a statewide aggregate allocation of \$135,000,000, as provided, and would make conforming changes to related provisions. This bill would authorize a redevelopment agency to defer the payment of a portion of this allocation if that agency finds that it is unable, for either of certain reasons, to pay the full allocation, and if the agency adopts a specified resolution. The bill would also authorize a legislative body, in lieu of making that payment during the 2003–04 fiscal year, to remit, prior to May 10, 2004, a designated amount to the county auditor for deposit in the county's Educational Revenue Augmentation Fund. By imposing additional duties on local tax officials in connection with the allocation of property tax revenues, this bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.



This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

(3) The bill would declare that it is to take effect immediately as an urgency measure.

The people of the State of California do enact as follows:

SECTION 1. Section 33020 of the Health and Safety Code is amended to read:

33020. “Redevelopment” means the planning, development, replanning, redesign, clearance, reconstruction, or rehabilitation, or any combination of these, of all or part of a survey area, and the provision of those residential, commercial, industrial, public, or other structures or spaces as may be appropriate or necessary in the interest of the general welfare, including recreational and other facilities incidental or appurtenant to them and payments to school and community college districts in the fiscal years specified in Sections 33681, 33681.5, 33681.7, and 33681.9.

SEC. 2. Section 33333.2 of the Health and Safety Code is amended to read:

33333.2. (a) A redevelopment plan containing the provisions set forth in Section 33670 shall contain all of the following limitations. A redevelopment plan that does not contain the provisions set forth in Section 33670 shall contain the limitations in paragraph (4):

(1) (A) A time limit on the establishing of loans, advances, and indebtedness to be paid with the proceeds of property taxes received pursuant to Section 33670 to finance in whole or in part the redevelopment project, which may not exceed 20 years from the adoption of the redevelopment plan, except by amendment of the redevelopment plan as authorized by subparagraph (B). This limit, however, shall not prevent agencies from incurring debt to be paid from the Low and Moderate Income Housing Fund or establishing more debt in order to fulfill the agency’s housing obligations under subdivision (a) of Section 33333.8. The loans, advances, or indebtedness may be repaid over a period of time longer than this time limit as provided in this section. No loans, advances, or indebtedness to be repaid from the allocation of taxes



shall be established or incurred by the agency beyond this time limitation. This limit shall not prevent agencies from refinancing, refunding, or restructuring indebtedness after the time limit if the indebtedness is not increased and the time during which the indebtedness is to be repaid is not extended beyond the time limit to repay indebtedness required by this section.

(B) The time limitation established by subparagraph (A) may be extended only by amendment of the redevelopment plan after the agency finds, based on substantial evidence, that (i) significant blight remains within the project area; and (ii) this blight cannot be eliminated without the establishment of additional debt. However, this amended time limitation may not exceed 30 years from the effective date of the ordinance adopting the redevelopment plan, except as necessary to comply with subdivision (a) of Section 33333.8.

(2) A time limit, not to exceed 30 years from the adoption of the redevelopment plan, on the effectiveness of the redevelopment plan. After the time limit on the effectiveness of the redevelopment plan, the agency shall have no authority to act pursuant to the redevelopment plan except to pay previously incurred indebtedness and to enforce existing covenants or contracts, unless the agency has not completed its housing obligations pursuant to subdivision (a) of Section 33333.8, in which case the agency shall retain its authority to implement requirements under subdivision (a) of Section 33333.8, including its ability to incur and pay indebtedness for this purpose, and shall use this authority to complete these housing obligations as soon as is reasonably possible.

(3) A time limit, not to exceed 45 years from the adoption of the redevelopment plan, to repay indebtedness with the proceeds of property taxes received pursuant to Section 33670. After the time limit established pursuant to this paragraph, an agency may not receive property taxes pursuant to Section 33670, except as necessary to comply with subdivision (a) of Section 33333.8.

(4) A time limit, not to exceed 12 years from the adoption of the redevelopment plan, for commencement of eminent domain proceedings to acquire property within the project area. This time limitation may be extended only by amendment of the redevelopment plan.



(b) If a redevelopment plan is amended to add territory, the amendment shall contain the time limits required by this section.

(c) When an agency is required to make a payment pursuant to Section 33681.9, the legislative body may amend the redevelopment plan to extend the time limits required pursuant to paragraphs (2) and (3) of subdivision (a) by one year by adoption of an ordinance. In adopting this ordinance, neither the legislative body nor the agency is required to comply with Section 33354.6, Article 12 (commencing with Section 33450), or any other provision of this part relating to the amendment of redevelopment plans.

(d) This section shall apply only to redevelopment projects for which a final redevelopment plan is adopted pursuant to Article 5 (commencing with Section 33360) on or after January 1, 1994, and to amendments that add territory and that are adopted on or after January 1, 1994.

SEC. 3. Section 33333.6 of the Health and Safety Code is amended to read:

33333.6. The limitations of this section shall apply to every redevelopment plan adopted on or before December 31, 1993.

(a) The effectiveness of every redevelopment plan to which this section applies shall terminate at a date that shall not exceed 40 years from the adoption of the redevelopment plan or January 1, 2009, whichever is later. After the time limit on the effectiveness of the redevelopment plan, the agency shall have no authority to act pursuant to the redevelopment plan except to pay previously incurred indebtedness, to comply with Section 33333.8 and to enforce existing covenants, contracts, or other obligations.

(b) Except as provided in subdivisions (f) and (g), a redevelopment agency may not pay indebtedness or receive property taxes pursuant to Section 33670 after 10 years from the termination of the effectiveness of the redevelopment plan pursuant to subdivision (b).

(c) (1) If plans that had different dates of adoption were merged on or before December 31, 1993, the time limitations required by this section shall be counted individually for each merged plan from the date of the adoption of each plan. If an amendment to a redevelopment plan added territory to the project area on or before December 31, 1993, the time limitations required by this section shall commence, with respect to the redevelopment



plan, from the date of the adoption of the redevelopment plan, and, with respect to the added territory, from the date of the adoption of the amendment.

(2) If plans that had different dates of adoption are merged on or after January 1, 1994, the time limitations required by this section shall be counted individually for each merged plan from the date of the adoption of each plan.

(d) (1) Unless a redevelopment plan adopted prior to January 1, 1994, contains all of the limitations required by this section and each of these limitations does not exceed the applicable time limits established by this section, the legislative body, acting by ordinance on or before December 31, 1994, shall amend every redevelopment plan adopted prior to January 1, 1994, either to amend an existing time limit that exceeds the applicable time limit established by this section or to establish time limits that do not exceed the provisions of subdivision (b) or (c).

(2) The limitations established in the ordinance adopted pursuant to this section shall apply to the redevelopment plan as if the redevelopment plan had been amended to include those limitations. However, in adopting the ordinance required by this section, neither the legislative body nor the agency is required to comply with Article 12 (commencing with Section 33450) or any other provision of this part relating to the amendment of redevelopment plans.

(e) (1) If a redevelopment plan adopted prior to January 1, 1994, contains one or more limitations required by this section, and the limitation does not exceed the applicable time limit required by this section, this section shall not be construed to require an amendment of this limitation.

(2) (A) A redevelopment plan adopted prior to January 1, 1994, that has a limitation shorter than the terms provided in this section may be amended by a legislative body by adoption of an ordinance on or after January 1, 1999, but on or before December 31, 1999, to extend the limitation, provided that the plan as so amended does not exceed the terms provided in this section. In adopting an ordinance pursuant to this subparagraph, neither the legislative body nor the agency is required to comply with Section 33354.6, Article 12 (commencing with Section 33450), or any other provision of this part relating to the amendment of redevelopment plans.



(B) On or after January 1, 2002, a redevelopment plan may be amended by a legislative body by adoption of an ordinance to eliminate the time limit on the establishment of loans, advances, and indebtedness required by this section prior to January 1, 2002. In adopting an ordinance pursuant to this subparagraph, neither the legislative body nor the agency is required to comply with Section 33354.6, Article 12 (commencing with Section 33450), or any other provision of this part relating to the amendment of redevelopment plans, except that the agency shall make the payment to affected taxing entities required by Section 33607.7.

(C) When an agency is required to make a payment pursuant to Section 33681.9, the legislative body may amend the redevelopment plan to extend the time limits required pursuant to subdivisions (a) and (b) by one year by adoption of an ordinance. In adopting an ordinance pursuant to this subparagraph, neither the legislative body nor the agency is required to comply with Section 33354.6 or Article 12 (commencing with Section 33450) or any other provision of this part relating to the amendment of redevelopment plans, including, but not limited to, the requirement to make the payment to affected taxing entities required by Section 33607.7.

(f) The limitations established in the ordinance adopted pursuant to this section shall not be applied to limit the allocation of taxes to an agency to the extent required to comply with Section 33333.8. In the event of a conflict between these limitations and the obligations under Section 33333.8, the limitations established in the ordinance shall be suspended pursuant to Section 33333.8.

(g) This section shall not be construed to affect the validity of any bond, indebtedness, or other obligation, including any mitigation agreement entered into pursuant to Section 33401, authorized by the legislative body, or the agency pursuant to this part, prior to January 1, 1994. This section shall not be construed to affect the right of an agency to receive property taxes, pursuant to Section 33670, to pay the bond, indebtedness, or other obligation.

(h) A redevelopment agency shall not pay indebtedness or receive property taxes pursuant to Section 33670, with respect to a redevelopment plan adopted prior to January 1, 1994, after the date identified in subdivision (b) or the date identified in the redevelopment plan, whichever is earlier, except as provided in



paragraph (2) of subdivision (e), in subdivision (g), or in Section 33333.8.

(i) The Legislature finds and declares that the amendments made to this section by the act that adds this subdivision are intended to add limitations to the law on and after January 1, 1994, and are not intended to change or express legislative intent with respect to the law prior to that date. It is not the intent of the Legislature to affect the merits of any litigation regarding the ability of a redevelopment agency to sell bonds for a term that exceeds the limit of a redevelopment plan pursuant to law that existed prior to January 1, 1994.

(j) If a redevelopment plan is amended to add territory, the amendment shall contain the time limits required by Section 33333.2.

SEC. 4. Section 33681.9 is added to the Health and Safety Code, to read:

33681.9. (a) (1) During the 2003–04 fiscal year, a redevelopment agency shall, prior to May 10, remit an amount equal to the amount determined for that agency pursuant to subparagraph (I) of paragraph (2) to the county auditor for deposit in the county’s Educational Revenue Augmentation Fund created pursuant to Article 3 (commencing with Section 97) of Chapter 6 of Part 0.5 of Division 1 of the Revenue and Taxation Code.

(2) For the 2003–04 fiscal year, on or before October 1, the Director of Finance shall do all of the following:

(A) Determine the net tax increment apportioned to each agency pursuant to Section 33670, excluding any amounts apportioned to affected taxing agencies pursuant to Section 33401, 33607.5, or 33676, in the 2001–02 fiscal year.

(B) Determine the net tax increment apportioned to all agencies pursuant to Section 33670, excluding any amounts apportioned to affected taxing agencies pursuant to Section 33401, 33607.5, or 33676, in the 2001–02 fiscal year.

(C) Determine a percentage factor by dividing sixty-seven million five hundred thousand dollars (\$67,500,000) by the amount determined pursuant to subparagraph (B).

(D) Determine an amount for each agency by multiplying the amount determined pursuant to subparagraph (A) by the percentage factor determined pursuant to subparagraph (C).



(E) Determine the total amount of property tax revenue apportioned to each agency pursuant to Section 33670, including any amounts apportioned to affected taxing agencies pursuant to Section 33401, 33607.5, or 33676, in the 2001–02 fiscal year.

(F) Determine the total amount of property tax revenue apportioned to all agencies pursuant to Section 33670, including any amounts apportioned to affected taxing agencies pursuant to Section 33401, 33607.5, or 33676, in the 2001–02 fiscal year.

(G) Determine a percentage factor by dividing sixty-seven million five hundred thousand dollars (\$67,500,000) by the amount determined pursuant to subparagraph (F).

(H) Determine an amount for each agency by multiplying the amount determined pursuant to subparagraph (E) by the percentage factor determined pursuant to subparagraph (G).

(I) Add the amount determined pursuant to subparagraph (D) to the amount determined pursuant to subparagraph (H).

(J) Notify each agency and each legislative body of the amount determined pursuant to subparagraph (I).

(K) Notify each county auditor of the amounts determined pursuant to subparagraph (I) for each agency in his or her county.

(b) (1) Notwithstanding Sections 33334.2, 33334.3, and 33334.6, and any other provision of law, in order to make the full allocation required by this section, an agency may borrow up to 50 percent of the amount required to be allocated to the Low and Moderate Income Housing Fund pursuant to Sections 33334.2, 33334.3, and 33334.6 during the 2003–04 fiscal year, unless executed contracts exist that would be impaired if the agency reduced the amount allocated to the Low and Moderate Income Housing Fund pursuant to the authority of this subdivision.

(2) As a condition of borrowing pursuant to this subdivision, an agency shall make a finding that there are insufficient other moneys to meet the requirements of subdivision (a). Funds borrowed pursuant to this subdivision shall be repaid in full within 10 years following the date on which moneys were borrowed.

(c) In order to make the allocation required by this section, an agency may use any funds that are legally available and not legally obligated for other uses, including, but not limited to, reserve funds, proceeds of land sales, proceeds of bonds or other indebtedness, lease revenues, interest, and other earned income.



No moneys held in a low- and moderate-income fund as of July 1 of that fiscal year may be used for this purpose.

(d) The legislative body shall by March 1 report to the county auditor as to how the agency intends to fund the allocation required by this section, or that the legislative body intends to remit the amount in lieu of the agency pursuant to Section 33681.11.

(e) The allocation obligations imposed by this section, including amounts owed, if any, created under this section, are hereby declared to be an indebtedness of the redevelopment project to which they relate, payable from taxes allocated to the agency pursuant to Section 33670, and shall constitute an indebtedness of the agency with respect to the redevelopment project until paid in full.

(f) It is the intent of the Legislature, in enacting this section, that these allocations directly or indirectly assist in the financing or refinancing, in whole or in part, of the community's redevelopment projects pursuant to Section 16 of Article XVI of the California Constitution.

(g) In making the determinations required by subdivision (a), the Director of Finance shall use those amounts reported as the "Tax Increment Retained by Agency" for all agencies and for each agency in Table 7 of the 2001–02 fiscal year Controller's State of California Community Redevelopment Agencies Annual Report.

(h) If revised reports have been accepted by the Controller on or before January 1, 2004, the Director of Finance shall use appropriate data that has been certified by the Controller for the purpose of making the determinations required by subdivision (a).

SEC. 5. Section 33681.10 is added to the Health and Safety Code, to read:

33681.10. (a) (1) For the purposes of this section, "existing indebtedness" means one or more of the following obligations incurred by a redevelopment agency prior to the effective date of this section, the payment of which is to be made in whole or in part, directly or indirectly, out of taxes allocated to the agency pursuant to Section 33670, and that is required by law or provision of the existing indebtedness to be made during the fiscal year of the relevant allocation required by Section 33681.9:

(A) Bonds, notes, interim certificates, debentures, or other obligations issued by the agency, whether funded, refunded,



assumed, or otherwise, pursuant to Article 5 (commencing with Section 33640).

(B) Loans or moneys advanced to the agency, including, but not limited to, loans from federal, state, or local agencies, or a private entity.

(C) A contractual obligation that, if breached, could subject the agency to damages or other liabilities or remedies.

(D) An obligation incurred pursuant to Section 33445.

(E) Indebtedness incurred pursuant to Section 33334.2.

(F) An amount, to be expended for the operation and administration of the agency, that may not exceed 90 percent of the amount spent for those purposes in the 2001–02 fiscal year.

(G) Obligations imposed by law with respect to activities that occurred prior to the effective date of the act that adds this section.

(2) Existing indebtedness incurred prior to the effective date of this section may be refinanced, refunded, or restructured after that date, and shall remain existing indebtedness for the purposes of this section, if the annual debt service during that fiscal year does not increase over the prior fiscal year and the refinancing does not reduce the ability of the agency to make the payment required by subdivision (a) of Section 33681.9.

(3) For the purposes of this section, indebtedness shall be deemed to be incurred prior to the effective date of this section if the agency has entered into a binding contract subject to normal marketing conditions, to deliver the indebtedness, or if the redevelopment agency has received bids for the sale of the indebtedness prior to that date and the indebtedness is issued for value and evidence thereof is delivered to the initial purchaser no later than 30 days after the date of the contract or sale.

(b) During the 2003–04 fiscal year, an agency that has adopted a resolution pursuant to subdivision (c) may, pursuant to subdivision (a) of Section 33681.9, allocate to the auditor less than the amount required by subdivision (a) of Section 33681.9, if the agency finds that either of the following has occurred:

(1) That the difference between the amount allocated to the agency and the amount required by subdivision (a) of Section 33681.9 is necessary to make payments on existing indebtedness that are due or required to be committed, set aside, or reserved by the agency during the applicable fiscal year and that are used by the agency for that purpose, and the agency has no other funds that



can be used to pay this existing indebtedness, and no other feasible method to reduce or avoid this indebtedness.

(2) The agency has no other funds to make the allocation required by subdivision (a) of Section 33681.9.

(c) (1) Any agency that, pursuant to subdivision (b), intends to allocate to the auditor less than the amount required by subdivision (a) of Section 33681.9 shall adopt, prior to December 31, 2003, after a noticed public hearing, a resolution that lists all of the following:

(A) Each existing indebtedness incurred prior to the effective date of this section.

(B) Each indebtedness on which a payment is required to be made during the 2003–04 fiscal year.

(C) The amount of each payment, the time when it is required to be paid, and the total of the payments required to be made during the 2003–04 fiscal year. For indebtedness that bears interest at a variable rate, or for short-term indebtedness that is maturing during the fiscal year and that is expected to be refinanced, the amount of payments during the fiscal year shall be estimated by the agency.

(2) The information contained in the resolution required by this subdivision shall be reviewed for accuracy by the chief fiscal officer of the agency.

(3) The legislative body shall additionally adopt the resolution required by this section.

(d) (1) Any agency that, pursuant to subdivision (b), determines that it will be unable in the 2003–04 fiscal year, to allocate the full amount required by subdivision (a) of Section 33681.9 shall, subject to paragraph (3), enter into an agreement with the legislative body by February 15, 2004, to fund the payment of the difference between the full amount required to be paid pursuant to subdivision (a) of Section 33681.9 and the amount available for allocation by the agency.

(2) The obligations imposed by paragraph (1) are hereby declared to be indebtedness incurred by the redevelopment agency to finance a portion of a redevelopment project within the meaning of Section 16 of Article XVI of the California Constitution. This indebtedness shall be payable from tax revenues allocated to the agency pursuant to Section 33670, and any other funds received by the agency. The obligations imposed by paragraph (1) shall



remain an indebtedness of the agency to the legislative body until paid in full, or until the agency and the legislative body otherwise agree.

(3) The agreement described in paragraph (1) shall be subject to these terms and conditions specified in a written agreement between the legislative body and the agency.

(e) If the agency fails, under either Section 33681.9 or subdivision (d), to transmit the full amount of funds required by Section 33681.9, is precluded by court order from transmitting that amount, or is otherwise unable to meet its full obligation pursuant to Section 33681.9, the county auditor, by no later than May 15, 2004, shall transfer any amount necessary to meet the obligation determined for that agency in paragraph (1) of subdivision (c) of Section 33681.9 from the legislative body's property tax allocation pursuant to Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code.

SEC. 6. Section 33681.11 is added to the Health and Safety Code, to read:

33681.11. (a) In lieu of the remittance required by Section 33681.9, during the 2003–04 fiscal year, a legislative body may, prior to May 10, 2004, remit an amount equal to the amount determined for the agency pursuant to subparagraph (I) of paragraph (2) of subdivision (a) of Section 33681.9 to the county auditor for deposit in the county's Educational Revenue Augmentation Fund created pursuant to Article 3 (commencing with Section 97) of Chapter 6 of Part 0.5 of Division 1 of the Revenue and Taxation Code.

(b) The legislative body may make the remittance authorized by this section from any funds that are legally available for this purpose. No moneys held in an agency's Low and Moderate Income Housing Fund shall be used for this purpose.

(c) If the legislative body, pursuant to subdivision (d) of Section 33681.9, reported to the county auditor that it intended to remit the amount in lieu of the agency and the legislative body fails to transmit the full amount as authorized by this section by May 10, 2004, the county auditor, no later than May 15, 2004, shall transfer an amount necessary to meet the obligation from the legislative body's property tax allocation pursuant to Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the



Revenue and Taxation Code. If the amount of the legislative body's property tax allocation is not sufficient to meet this obligation, the county auditor shall transfer an additional amount necessary to meet this obligation from the property tax increment revenue apportioned to the agency pursuant to Section 33670, provided that no moneys allocated to the agency's Low and Moderate Income Housing Fund shall be used for this purpose.

SEC. 7. Section 33683 of the Health and Safety Code is amended to read:

33683. For the purpose of calculating the amount which has been divided and allocated to the redevelopment agency to determine whether the limitation adopted pursuant to Section 33333.2 or 33333.4 or pursuant to agreement or court order has been reached, any payments made pursuant to subdivision (a) of Sections 33681, 33681.5, 33681.7, and 33681.9 or subdivision (d) of Sections 33682, 33682.5, 33681.8, and 33681.10 with property tax revenues shall be deducted from the amount of property tax dollars deemed to have been received by the agency.

SEC. 8. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make the necessary changes to implement the Budget Act of 2003 at the earliest possible time, it is necessary that this take effect immediately.



Approved _____, 2003

Governor

